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OFFICE OF PETITIONS

In re Application of
Thomas D. Smith III
Application No. 10/803,812
Filed: March 18, 2004
Attorney Docket No. 4056-003 (7242.001)

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 31, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 24, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). In view of the 1-month extension of time filed on September 20, 2007, the date of abandonment of this application is September 25, 2007.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$810, and (3) an adequate statement of unintentional delay.

Further, the Power of Attorney filed October 31, 2008, is hereby accepted and made of record. The Notice of Acceptance of Power of Attorney is enclosed.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 3641 for appropriate action by the Examiner in the normal course of business on the amendment submitted October 31, 2008 in accordance with 37 CFR 1.114.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney



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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/803,812	03/18/2004	Thomas D. Smith III	4056-003

CONFIRMATION NO. 4845

30589
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OC000000033529427

Date Mailed: 12/09/2008

POA ACCEPTANCE LETTER

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/31/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/atkelly/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101